EMPLOYMENT ADVISORY COUNCIL MEETING

DATE AND TIME:	Wednesday, July 21, 2010 2:00 p.m.
PLACE:	Department of Workforce Services 140 E 300 S Room 211A-B Salt Lake City, UT
MEMBERS PRESENT:	Chyleen Arbon Thomas Bingham John Chindlund Kristen Cox Dave Davis Greg Diven (via telephone) Raylene Ireland Tony Montano Reta Oram Dee Rowland Richard Thorn
MEMBERS EXCUSED:	James Judd Richard Kingery Dan Peay
OTHERS:	Charles Amonett, Dept of Workforce Services William Greer, Dept of Workforce Services Nancy Grisel, GOPB Art Hunsaker, Office of Legislative Research and General Counsel Ally Isom, Department of Workforce Services EDO Jody McMillan, Dept of Workforce Services Jon Pierpont, Dept of Workforce Services Bradley Salmond, Dept of Workforce Services Tony Semerad, *Salt Lake Tribune* Kris Springer, Dept of Workforce Services Bill Starks, Dept of Workforce Services Jim Wilson, Office of Legislative Research and General Counsel

Welcome
Kristen Cox welcomed those in attendance.

Approval of Minutes
Bill Starks called for a motion on the June 9, 2010 minutes.

Motion: Dee Rowland made a motion that the minutes be approved as written. Rich Thorn seconded the motion and the motion was approved by unanimous vote.

Update on Federal UI Benefits and Workload
Emergency Unemployment Compensation extension has been in the news a lot lately. It appears that the Senate has enough votes to pass the legislation tonight and then it will go to the House tomorrow where it also appears to have enough votes to pass. It is anticipated that this new extension become effective in the next few days. This legislation will extend EUC until November 5, 2010 and will be retroactive to June 5, 2010. Utah has approximately 12,600 claimants who will be able to continue their benefits because of this extension. This will create a lot of work for UI because many claims will potentially need to be backdated to June 2010. A fairly large call volume is anticipated and staff will be prepared to work extended hours.

The FAC (Federal Additional Compensation) payment (the additional $25 per week payment to claimants) is not included as part of this new legislation. FAC payments will be phased out and it appears that in early December of this year Utah will be able to go to the 0% offset on Social Security and $5 reduction in weekly UI payments. This change will be applied to all new claims from that point forward. However, included with the new EUC legislation is the same non-reduction language that caused the issues when this group originally crafted the social security offset rule for Utah. If a state reduces the weekly benefit amounts it may jeopardize their EUC payments. It is unclear whether Utah's law will be impacted. Utah's argument to the federal government is that we had the law in place prior to this latest legislation. Bill has not received any clear answers at this time but there will be several months to reconcile the issue should they rule that Utah is, in fact, going to be in violation of the non-reduction rule if we begin the $5 benefit reduction in December as planned.

Update and Discussion on Solvency of UI Trust Fund
We are anticipating higher revenues in 2011 and 2012 mainly due to employers paying more taxes than had been previously forecasted. Please note that the increase isn't due to a change in the tax rates, it is simply due to the fact the revenues collected are going to be higher than anticipated. What this translates to is a pushback to the timeframe in which the trust fund is projected to go insolvent. Referring to the handout titled UI Trust Fund Reserve Factor and Social Cost Calculation, please note that the trust fund balance on June 30, 2010 was $363 million. On June 30, 2011 the fund balance is projected to be $143 million and projected balance in 2012 is -$12 million. The projected insolvency date has moved farther into the future. These projected figures are based on OMB figures for employment rates and job growth.

Kristen invited group to share ideas on how best to proceed with the UI Trust Fund solvency issue. Here are the suggested solutions discussed by the group:

40-YEAR LOOK BACK

Dave Davis shared the following thoughts: he believes that the legislature is looking to the group to provide recommendations on how to stop or at least slow the rapid approach to insolvency. One idea is to consider a 40-year look back period rather than the current 25-year look back period. This change would be a long-term strategy to better shore up the future solvency of the trust fund but would not provide an immediate impact.

MODIFY THE CLIFF EFFECT OF THE RESERVE FACTOR

Currently, the reserve factor rate holds at 1.5% and sits there until the fund goes insolvent and then the rate jumps by 50 points and goes all the way to 2.0%. One suggestion is to shorten the cliff effect and allow the rate to go to 1.6%. Approximately $16 million will be generated for each tenth that the rate increases. This change in the reserve factor rate could possibly halt the slide into insolvency.

REDUCE BENEFITS

Kristen Cox inquired if the employment groups will support the reserve factor increase. Dave Davis responded that it would be much easier if the employee side were willing to agree to a benefit reduction. Employers are willing the step up and do their part but do not want to carry the burden by themselves. However, with that being said, Dave is also aware of the issues created by the non-reduction rules and these rules are going to pose a bit of a challenge. The hope is that the commitment will be made that then benefit reductions are possible that some reasonable reductions will be made.

SPECIAL TRIGGER ESTABLISHED

Dave Davis continued by pointing out it may be a benefit to employers increase the reserve factor by .10 now because if the fund goes insolvent the rate will jump .50 all at once. The other thing Dave would like to suggest is some sort of a trigger. It may be by the time that November Interim rolls around the projections might not show a 2012 insolvent position. A suggestion might be if we are not going to be insolvent in 2012 that perhaps we sit on the status quo because that still gives the group another legislative session to address the 2013 situation. Maybe we sit on the status quo if it doesn’t appear that the fund will go insolvent in 2012 so the date of the projected insolvency is the trigger. When the trigger is hit (the fund will go insolvent in two years from the next legislative session) then the group will consider a menu of options such as the 40-year look back, reduction in benefits and making changes in the reserve factor rates.

ESTABLISH A SPECIAL FUND FOR INTEREST PAYMENTS

Another suggestion is to establish a special fund from the collections of overpayments and things of that nature. The thought would be to set these funds aside for interest payments in the event of insolvency. Interest payments cannot come from trust fund monies. This fund would avoid the need for a special tax assessment.

Bill Starks explained how the legislature would have control of the fund and provided a handout highlighting the current statute. He also included a draft of suggested language that would need to be added to the statute stating that the express purpose of the funds are for interest payments charged on loans due to inadequate funds in the UI Trust Fund.

Kristen suggested that the group individually go around and discuss each suggestion. A long discussion by the group ensued.

Kristen provided some pushback based on the discussion by the group. She is concerned about the long-term implications of tax changes that would take money out of the economy. She'd like to see a cost benefit analysis on the issue. She also suggested that the move to the 40-year look back is probably not feasible because of the huge change in the maximum and minimum levels. However, she feels changes to alleviate the cliff effect are probably smart regardless of the solvency of the trust fund.

Many questions were posed and discussion on a particular question will begin but then the discussion would be sidetracked with another question, thus leaving the group with many questions but not a lot of answers. The questions posed to/by the group includes:

- Does this group want to drive something for November legislative slate or would they prefer to sit and wait to see what the future trust fund projections look like?

- What is the trigger and what is the timing of the trigger?

- Is changing the tax structure preferable to borrowing from the federal government?

- Does the department need legislative approval to borrow from the federal government? The response to this question was that permission is not needed, however, it is always best to have the blessing of the legislature. Jim Wilson concurs and feels it is a good idea to open up a dialog with the legislative leadership regarding the issue.

Bill inquired if Art Hunsaker had a sense if the legislature wanted a report back on a regular basis on the state of the trust fund. The response was in the affirmative. Members of the legislature will want a report from the group at the August Interim meeting even if is simply to share that the group has some concerns regarding the possible solutions and that the fallback position of the group is to do nothing now and see how things play out in the near future with the trust fund.

Dave Davis proposed that if the fund is still projected to be insolvent in 2012 when the projections are reviewed in November then that becomes the trigger. It will probably be impossible to get a committee bill at that late time frame but it could certainly give the group enough time to get something introduced for the 2011 legislative session. It was pointed out that there will not be any new revenue projections until May 2011 but there could be some changes in the projected benefit payments (they are currently trending down) between now and the November Interim session.

Bill Starks asked if the federal government extends the interest free loans for an additional two years, (the current interest free loans are set to expire at the end of the year), then will that impact the council's decision? The group shared opinions on this issue. Reta Oram would like to do a pro and con analysis regarding borrowing from the federal government and to be provided with some additional cost analysis of what some of these decisions would mean. Raylene Ireland suggested the need for a subcommittee with both business and labor to explore these issues to see if there might be any common ground.

Kristen Cox asked if it would make sense for a representative from each group (public, employer, employee) to assemble and review a list of questions that the entire group needs answers for and prepare a decision related to each question so that the next time the group meets questions have been answered, information has been disseminated and the group is clear on what decisions need to be made. The subcommittee could define the trigger, assemble a list of pros and cons, and provide the information to the group to put to a vote. At that point the legislature could also be appraised of all the options and be told the consensus of the group based on their vote.

Tom Bingham suggested the need for two separate triggers: one that puts the bill in place (November timeframe) and the second trigger determines if the group proceeds with the bill based on the state of the trust fund at the necessary deadline to be included for legislative consideration (January timeframe).

The group was astonished (once the actual figures were available) by the substantial change the 40-year look back would require on the reserve balances. For example, the 40-year look back would raise the minimum by $400 million. Dave Davis would like to take the 40-year look back suggestion off the table for consideration. After seeing the numbers the group does not want to proceed with this option. The group agreed to take the suggestion off the table.

In regards to the cliff effect of the reserve factor, the question was posed if legislation would have to be enacted in order to make the proposed changes to both the bottom and top of the table. The answer was yes. The suggestion was made that the group start by drafting legislation to make the changes to the reserve factor. The point was reiterated that the employer side does not want to proceed with the tax rate increase without a commitment for a benefit decrease. Discussion worked its way around the fact that the non-reduction rule included in the last EUC extension by the federal government could prohibit a change in benefits. The employment side stated that they would be comfortable proceeding with the idea of a tax rate increase as long as some sort of benefit reduction would go into effect once the state was no longer encumbered by the non-reduction rule. Bill inserted that if the group was to go forward with any benefit reduction it would be wise to tie it to the expiration of EUC. The group agreed upon the need to discuss the issue further and come to common ground on numbers.

Dave Davis requested that Bill Starks do some research to determine what the rate would go to should the fund go insolvent and the need to borrow from the federal government arises. Bill will research and share what he finds with the group. If we can borrow the funds to cover the insolvency and not have to go to the insolvent rate of 2.0 then that will have a significant impact on the employer representatives' position on borrowing.

The question was posed on how the group felt about the suggestion of setting aside monies and having a designated fund to pay penalties and interest. The group responded that they are interested in making this a statutory change. This change would prevent the need for special tax assessment. The group is comfortable to proceed with this plan. Bill will craft something with Jim to get this process started.

Bill referred back to Kristen's suggestion to assemble an informal group to proceed with discussions on solutions to dealing with the trust fund solvency. Bill asked for volunteers to meet as an informal group to come up with ideas for the entire body to come back and vote on. The informal group will be as follows: Dave Davis (representing employment), Jim Judd (representing labor) and Raylene Ireland (public representative). This subcommittee will need to meet soon and frequently. Bill Starks will coordinate the workgroup.

Adjourn

The meeting adjourned at 3:48 pm.